

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

CRISTAL USA, INC.

and

Case 08-CA-200330

INTERNATIONAL CHEMICAL WORKERS
UNION COUNCIL OF THE UNITED FOOD
& COMMERCIAL WORKERS, AFL-CIO, CLC

ORDER DENYING MOTION FOR RECONSIDERATION ¹

The Charging Party's Motion for Reconsideration of the Board's Order Denying Motion and Remanding reported at 368 NLRB No. 137 (2019) is denied. The Charging Party has not identified any material error or demonstrated extraordinary circumstances warranting reconsideration under Section 102.48(c)(1) of the Board's Rules and Regulations.

Dated, Washington, D.C., March 6, 2020.

John F. Ring, Chairman

Marvin E. Kaplan, Member

¹ Member Emanuel is a member of the panel but did not participate in this decision on the merits.

In *New Process Steel v. NLRB*, 130 S.Ct. 2635 (2010), the Supreme Court left undisturbed the Board's practice of deciding cases with a two-member quorum when one of the panel members has recused himself. Under the Court's reading of the Act, "the group quorum provision [of Sec. 3(b)] still operates to allow any panel to issue a decision by only two members if one member is disqualified." *New Process Steel*, 130 S. Ct. at 2644. See also, e.g., *D.R. Horton*, 357 NLRB 2277, 2277 n.1 (2012), enfd. in relevant part, 737 F.3d 344, 353 (5th Cir. 2013); *NLRB v. New Vista Nursing and Rehabilitation*, 870 F.3d 113, 127–28 (3d Cir. 2017); *1621 Route 22 West Operating Company*, 357 NLRB 1866, 1866 n.1 (2011), enfd. 725 Fed. Appx. 129, 136 n.7 (3d Cir. 2018).